

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF CANCELLATION IN PART OF WATER APPROPRIATION A-17419R

AND APPROVAL OF MAP NUMBER 20769

WATER DIVISION 2-F

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-17419R is held by Foley Family Limited Partnership.
2. Appropriation A-17419R has a priority date of November 21, 1994, and authorizes the use of water for irrigation of the 53.4 acres of land described below. The water may be diverted from the Missouri River at points of diversion located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 05, Township 33 North, Range 01 East of the 6th P.M. in Cedar County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 0.76 cfs from all points of diversion.

<u>Township 33 North, Range 01 East of the</u>		<u>6th P.M. in Cedar County</u>	<u>Acres</u>
Section 04:	SW $\frac{1}{4}$ NW $\frac{1}{4}$		7.1
	NW $\frac{1}{4}$ SW $\frac{1}{4}$		5.8
Section 05:	SW $\frac{1}{4}$ NE $\frac{1}{4}$		8.7
	SE $\frac{1}{4}$ NE $\frac{1}{4}$		7.5
	NE $\frac{1}{4}$ SW $\frac{1}{4}$		14.4
	NW $\frac{1}{4}$ SE $\frac{1}{4}$		2.6
	NE $\frac{1}{4}$ SE $\frac{1}{4}$		<u>7.3</u>
	TOTAL		53.4

3. On June 30, 2021, Don Foley, on behalf of Foley Family Limited Partnership, filed relinquishment REL-9342, relinquishing the right to divert water under a portion of appropriation A-17419R to irrigate the 16.2 acres of land described below.

<u>Township 33 North, Range 01 East of the</u>		<u>6th P.M. in Cedar County</u>	<u>Acres</u>
Section 05:	SW $\frac{1}{4}$ NE $\frac{1}{4}$		8.7
	SE $\frac{1}{4}$ NE $\frac{1}{4}$		<u>7.5</u>
	TOTAL		16.2

4. The Department's mapping staff, using more accurate information that has become available, prepared map number 20769 which more accurately depicts the 37.2 acres of land currently being irrigated under appropriation A-17419R. The number of acres in each legal description has changed but the total number of acres remain the same.

ORDER

IT IS HEREBY ORDERED:

1. Part of appropriation A-17419R at the rate of 0.23 cfs for use upon the 16.2 acres of land described above is CANCELLED.
2. Appropriation A-17419R now authorizes the appropriator to divert water from the Missouri River to irrigate the 37.2 acres of land described below and depicted on map number 20769 which is made a part of this Order. The points of diversion remain in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 05, Township 33 North, Range 01 East of the 6th P.M. in Cedar County, as depicted on map number 20769. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum combined rate of 0.53 cfs (238 gallons per minute) from all points of diversion.

<u>Township 33 North, Range 01 East of the</u>	<u>Acres</u>
<u>6th P.M. in Cedar County</u>	
Section 04: SW $\frac{1}{4}$ NW $\frac{1}{4}$	6.2
NW $\frac{1}{4}$ SW $\frac{1}{4}$	7.7
Section 05: SE $\frac{1}{4}$ NE $\frac{1}{4}$	0.5
NE $\frac{1}{4}$ SW $\frac{1}{4}$	13.5
NW $\frac{1}{4}$ SE $\frac{1}{4}$	3.4
NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>5.9</u>
TOTAL	37.2

3. All terms and conditions of previous orders for appropriation A-17419 remain in effect unless specifically changed by this Order.
4. The appropriator must comply with all relevant statutes. These relevant statutory requirements include, but are not limited to, the following:
 - A. Notify the Department of any change in ownership or address.
 - B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).
 - C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations. If you are not able to divert sufficient amounts of water, you may call for water by contacting your local field office.

DEPARTMENT OF NATURAL RESOURCES



Thomas E. Riley, P.E., Director

August 18, 2021

A copy of this Order was posted on the Department's website. Copies of this Order and map number 20769 were provided to the Department's field office in Norfolk, Nebraska. Copies of this Order and map number 20769 were mailed on August 18, 2021, to the following:

Don Foley
Foley Family Limited Partnership
PO Box 7
Tyndall, South Dakota 57066